

Department of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

In the Matter of

Civil Citation No. 77726

Frederick G. Schiesser  
Elsie May Schiesser

405 Mace Avenue

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 28, 2010, for a Hearing on a citation for violations of the Baltimore County Code (BCC) section 13-7-310, 312, 3-6-401, 402, 13-4-201; Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1A, 1B01.1D, failure to store trash in cans with tight fitting lids, failure to cease use of property as a contractors storage yard, failure to comply with Hearing Officer's ruling, failure to cease use of property as an open dump on residential property zoned BL known as 405 Mace Avenue, 21221.

On June 3, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Christina Frink issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$10,200.00 (ten thousand two hundred dollars).

The following persons appeared for the Hearing and testified: Frederick Schiesser, Respondent, and, Christina Frink, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on May 17, 2010 for removal of open dump/junk yard, remove trash and debris, store garbage in containers with tight lids, cut and remove tall grass and weeds. This Citation was issued on July 13, 2010.

B. Inspector Christina Frink testified that this commercial property has been the subject of multiple code enforcement notices and citations, and still has violations. Re-inspections have found no improvement in the property and no cleanup. A Final Order was issued on June 9, 2009 enforcing a Citation and requiring Respondent to clean up and remove trash and debris, and properly store garbage in cans with tight lids.

C. Photographs in the file show about twenty large, full black plastic garbage bags piled behind the building. Photographs show a small Bobcat tractor and other contractor's equipment in the yard, including ladders, toolboxes, and piled lumber, windows, and other building materials. Photographs show junk and debris including buckets, old tires, old appliances, old oil drums, and what appears to be a pile of junk metal including bed frames, broken grill, and other scrap metal pieces. This violates prohibitions against the accumulation of junk, trash and debris on private property. BCC Section 13-4-201. This also constitutes an open dump, which under the County's Zoning Regulations is not a permitted use on this property. BCZR Section 101.1 (Open Dump: "Any land ... on which there is deposit and accumulation, either temporary or permanent, of any kind of organic or inorganic refuse..."). All trash, junk, and debris must be removed from the yard of this commercial property.

D. Photographs show a small Bobcat tractor and other contractor's equipment in the yard, including ladders, toolboxes, and piled lumber, windows, and other building materials. Under Baltimore County Zoning Regulations, a contractor's equipment storage yard is the use of any space, inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage. BCZR Section 101.1. The zoning regulations do not permit use of B.L. (Business. Local) zoned property for a contractor's equipment storage yard. BCZR Section 102.1 ("No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations...."); BCZR Section 230.1, Permitted uses in B.L. Zones; see BCZR

Article 2, Schedule of Special Exceptions, 2 Attachment 1:1 (chart showing this use prohibited in all residential zones; use permitted by special exception in B.R. zone, and permitted in M.L. and M.H. zones). Respondent must remove all contractor's equipment, machinery, and building materials from the yard of this commercial property.

E. Respondent Frederick Schiesser expressed his strong objection to the County's inspections and enforcement actions. He testified that he has been repairing buildings and cleaning up the property. He stated that he does not want the County inspector to walk the property with him to discuss issues and identify specific code violations. He testified that he will have the property cleaned up within one month.

F. Review of the file shows that multiple enforcement notices have been issued to Respondent since at least 2007 for similar violations on this commercial property. Respondent has cleaned up some of the property but violations remain uncorrected. The presence of a fence does not permit Respondent to use the property as a junk yard or a trash pile, or a contractor's equipment storage yard. The property must be cleaned up and the contractor's equipment must be removed or stored inside a building. Because compliance is the goal of code enforcement, Respondent will be given one more opportunity to correct the violations and obtain a reduced civil penalty. If the violations are not corrected, the County will be authorized to enter the property to correct the violations, at the property owner's expense.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$1,000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$100.00 (one hundred dollars) if the violations are corrected by September 8, 2010.

IT IS FURTHER ORDERED that after September 8, 2010, the County may enter the property for the purpose of removing all junk, trash, debris, and garbage, at the property owner's expense.

IT IS FURTHER ORDERED that after September 8, 2010, the County may enter the property for the purpose of removing all contractor's equipment or machinery, including building materials, that is being improperly stored outside on the property, at the property owner's expense.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 4<sup>th</sup> day of August 2010

Signed: ORIGINAL SIGNED  
Margaret Z. Ferguson  
Baltimore County Hearing Officer

**NOTICE TO RESPONDENT:** The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.